

REMARKS

In the present reply, claims 1, 5 6 and 8 have been amended and claims 10-13 have been added. This makes claims 1-13 as pending in the present application.

No new matter has been added with the various claim amendments. These amendments have support throughout the specification. Applicants note that these amendments also reflect the Article 34 amendments that were submitted to the USPTO on September 28, 2004. The Supplemental Preliminary Amendment filed on January 28, 2005 erroneously did not include the Article 34 changes.

No new matter has been added with new claims 10-13. Support for new claims 10-12 is found in the present specification at, i.e., page 7, second to last paragraph. Support for new claim 13 is found at, for example, page 14 or page 15, second full paragraph of either page.

Entry of the present amendments is respectfully requested.

Restriction Requirement

The Examiner has required election in the present application between:

Group I, claims 1 and 3-7, drawn to a gene which codes for an acetolactate synthase activity that is resistant to a pyrimidinyl carboxy herbicide and a recombinant vector that has said gene, a transformant that has the recombinant vector and methods of using a transgenic plant;

Group II, claim 2, drawn to an acetolactate synthase protein;

[Group III is not shown in Office Action]

Group IV, claim 8, drawn to a method of cultivating a plant having a modified acetolactate synthase gene; and

Group V, claim 9, drawn to a method of selecting a transformant cell having a gene coding for acetolactate synthase having a serine at position 627 relative to a wild-type rice acetolactate synthase replaced by isoleucine.

For the purpose of examination of the present application, Applicants elect, with traverse, Group V, Claim 9.

Applicants also respectfully note that new claims 10-13 correspond to the elected subject matter.

Election with Traverse

It is requested that the present Restriction Requirement be withdrawn since unity was found to exist during the international stage of the present application. Applicants note the findings in the International Preliminary Examination Report, which was filed by Applicants on November 3, 2004. Further, the Examiner states that the invention of claim 1 is known in the art. However, no mention is made of, i.e., claim 8 or claim 9. Applicants also submit that one cannot properly follow PCT Rule 13.1 and at the same time disregard the PCT IPER finding.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez, Registration No. 48,501, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

☐ Attached is a Petition for Extension of Time.

Application No. 10/509,121

Attorney Docket No. 1254-0259PUS1

Art Unite 1638

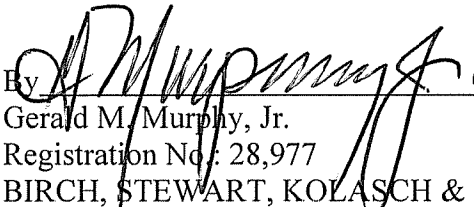
Amendment in Response to Restriction Requirement

☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: DEC 12 2006

Respectfully submitted,


By _____
Gerald M. Murphy, Jr.
Registration No.: 28,977
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road, Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant